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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/763,762	02/27/2001	Hermann Winner	R 34231	6339

7590 10/17/2002

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EXAMINER

HO, HA DINH

ART UNIT	PAPER NUMBER
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3681

DATE MAILED: 10/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/763,762

Applicant(s)

WINNER ET AL.

Examiner

Ha D. Ho

Art Unit

3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-11, 13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-11, 13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is responsive to Applicant's Amendment filed on 8/22/02, Paper No.
4. Claims 8 and 12 have been canceled, claims 9-11 have been amended, and new claims 13 and 14 have been added accordingly. Claims 9-11, 13 and 14 are currently pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 9-11, 13 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites the limitation "the supply voltage" and "the electrical systems" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the limitations "the force flow" and "the drive train" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 14 recites the limitations "the force flow" and "the drive train" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3681

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 9-11, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Bota (US 5,052,531).

Regarding claim 13, Bota'531 discloses an arrangement that would perform a method for ensuring standstill of a vehicle in combination with a road speed controller (i.e., the brake pedal 82) of the vehicle, comprising the steps of: braking the vehicle to standstill with said road speed controller (82) (i.e., when the driver stops the vehicle by depressing the brake pedal 82), building up a braking force in the manner of a parking brake function when said standstill of the vehicle is detected (i.e., the brake oil pressure is generated by the master cylinder 83 when the brake switch is ON and where the vehicle stops, see col. 5, lines 14-52), interrupting force flow in a drive train by controlling an automatic transmission into a neutral position (see col. 1, lines 50-52), detecting a start-drive command of the driver when an operator-controlled element is actuated (i.e., when the driver operates the shift lever from neutral to drive range. See col. 6, lines 51-62), and disengaging the parking brake function and controlling automatic transmission out of said neutral position (i.e., when the driver operates the shift lever from neutral to drive range, the control valve 75 is controlled to OFF and the forward clutch 15 is controlled to start the first gear. See col. 6, lines 51-62).

Regarding claim 14, the arrangement comprising a control unit (90) that would executes the set forth steps of the above method.

Regarding claim 9, the vehicle includes a supply voltage unit (i.e., brake switch 91) and electrical systems (i.e., electrical wire circuit). Bota'531 discloses that the brake is maintained

Art Unit: 3681

even if a driver releases the brake pedal (see abstract), i.e., the voltage of the electrical systems (pedal 82 and brake switch 91) is switched off (brake pedal releases).

Regarding claim 10, Bota'531 discloses that the brake is on until the starting gear position (corresponding to claimed star-drive command) is formed.

Regarding claim 11, Bota'531 shows controlling the gear position to neutral (see col. 5, lines 45-48, and step S5 in Fig. 4) after detection of standstill (i.e., car velocity = 0, and brake switch on, see step S2 and S4 in Fig. 4).

Response to Arguments

6. Applicant's arguments filed on 8/22/02 have been fully considered but they are not persuasive. Applicant states that Bota does not suggest for ensuring standstill in combination with a road speed control which can brake the vehicle all the way to standstill that is recited as "*braking the vehicle to standstill with said road speed controller of said vehicle*". Examiner disagrees because this recitation is clearly shown by Bota such that the road speed controller is interpreted as the brake pedal (82) which is operated to brake the vehicle to standstill.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

Art Unit: 3681

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Communication

8. Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is (703) 305-3597. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see M.P.E.P. 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P. 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to
the Patent and Trademark Office (Fax No. (703) 305-3597) on _____
(Date)

Typed or printed name of person signing this certificate:

(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P. 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Art Unit: 3681

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Examiner Ho whose telephone number is (703) 305-0738. The examiner can normally be reached on Monday-Friday from 7:30 A.M. to 5:00 P.M. Eastern Standard Time. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Mr. Charles Marmor, can be reached at (703) 308-0830. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

no

H. Ho
October 2, 2002

Charles Marmor 10/16/02
CHARLES A. MARMOH
SUPERVISORY PATENT EXAMINER
ART UNIT 3681